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Attorney for Plaintiff,
JACKIE O'NEAL

ORIGINAL FILED

OCT 31 2013

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

E-filing

ADR

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JACKIE O'NEAL,

Plaintiff,

v.

DYNAMIC RECOVERY SOLUTIONS,
LLC,

Defendant.

Case No.:

CV 13-05094

PSG

PLAINTIFF'S COMPLAINT

PLAINTIFF'S COMPLAINT

Plaintiff, JACKIE O'NEAL ("Plaintiff"), through her attorney, AGRUSS LAW FIRM, LLC, alleges the following against Defendant, DYNAMIC RECOVERY SOLUTIONS, LLC ("Defendant"):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. ("FDCPA").
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. ("RFDCPA").

JURISDICTION AND VENUE

3. This Court has jurisdiction under 28 U.S.C. §§1331, 1367, and 15 U.S.C. §1692k.
4. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. 1367 grants this court supplemental jurisdiction over the state claims contained within.
5. Venue and personal jurisdiction in this District are proper because Defendant does or transacts business within this District, and a material portion of the events at issue occurred in this District.

PARTIES

6. Plaintiff is a natural person residing in the San Jose, Santa Clara County, California.
7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3).
8. Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5) and Cal. Civ. Code § 1788.2(h).
9. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6) and Cal. Civ. Code §1788.2(c).
10. Within one (1) year preceding the date of this Complaint, Defendant sought to collect a consumer debt from Plaintiff.
11. Defendant is a collection agency located in Greenville, Greenville County, South Carolina.
12. Defendant is a business entity engaged in the collection of debt within the State of California.
13. The principal purpose of Defendant’s business is the collection of debts allegedly owed to third parties.
14. Defendant regularly collects, or attempts to collect, debts allegedly owed to third parties.

1 15. During the course of its attempts to collect debts allegedly owed to third parties, Defendant
2 sends to alleged debtors bills, statements, and/or other correspondence, via the mail and/or
3 electronic mail, and initiates contact with alleged debtors via various means of
4 telecommunication, such as by telephone and facsimile.

5
6 16. Defendant acted through its agents, employees, officers, members, directors, heirs,
7 successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

8 **FACTUAL ALLEGATIONS**

9 17. Defendant is attempting to collect an alleged debt originally owed to Chase Bank on a
10 personal line of credit.

11
12 18. Plaintiff's alleged debt owed arises from transactions for personal, family, and household
13 purposes.

14 19. Plaintiff's alleged debt is approximately fifteen-years-old.

15 20. In 2013, Defendant was hired to collect on the alleged debt.

16 21. Defendant began calling Plaintiff in July 2013, in an attempt to collect a debt.

17
18 22. On or about July 15, 2013, Defendant called Plaintiff's cellular telephone at 408-497-59xx.

19 23. Plaintiff's husband answered the telephone call on or about July 15, 2013, and spoke with
20 Defendant's collector, David.

21 24. David told Plaintiff's husband it was "DRS" calling.

22 25. David did not tell Plaintiff's husband that the call was actually from Dynamic Recovery
23 Solutions, LLC.

24
25 26. David also failed to inform Plaintiff's husband that the communication was an attempt to
26 collector a debt.

27 27. David told Plaintiff's husband to tell Plaintiff to call back at 888-364-2776.
28

1 28. 888-364-2776 is one of Defendant's telephone numbers.

2 29. On or about July 15, 2013, Plaintiff called Defendant's collector, David, back at 888-364-
3 2776.

4 30. David answered the phone and spoke with Plaintiff about the alleged debt.

5 31. Plaintiff asked David to send Plaintiff something in writing regarding the allege debt.

6 32. David refused to send Plaintiff anything in writing unless Plaintiff agreed to an immediate
7 payment plan on the phone.

8 33. David demanded immediate payment on the phone without informing Plaintiff that Plaintiff
9 could dispute the debt.

10 34. David told Plaintiff that Plaintiff must give David Plaintiff's banking information in order to
11 enter into a payment plan.

12 35. Plaintiff again requested something in writing, but David refused.

13 36. David threatened to contact Plaintiff's other creditors and inform those creditors that Plaintiff
14 refused to pay this alleged debt.

15 37. David informed Plaintiff that Plaintiff's other creditors would increase her interest rates as a
16 result of Plaintiff not paying this alleged debt.

17 38. Defendant has no standing to contact any of Plaintiff's creditors in order in increase interest
18 rates on Plaintiff's other accounts.

19 39. The representations made to Plaintiff by Defendant regarding contacting Plaintiff's other
20 creditors were false.

21 40. David also told Plaintiff that Plaintiff was defrauding Defendant's client, Chase Bank.

22 41. Defendant has no standing to claim Plaintiff is defrauding Defendant's client, Chase Bank.

23 42. The representations made to Plaintiff by Defendant regarding defrauding Defendant's client,
24
25
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Chase Bank, were false.

43. David told Plaintiff that Defendant would note Plaintiff's account as a refusal to pay.

44. On October 21, 2013, Plaintiff's counsel informed Defendant that Agruss Law Firm, LLC, represented Plaintiff.

45. On October 21, 2013, Plaintiff's counsel instructed Defendant to cease and desist all further communications with Plaintiff.

46. Despite Plaintiff's notice of representation and cease and desist request, on October 28, 2013, Defendant called Plaintiff on Plaintiff's cell phone at 408-497-59xx and spoke with Plaintiff's husband regarding the alleged debt.

47. On October 28, 2013, Defendant called from 408-637-5346.

48. 408-637-5346 is one of Defendant's telephone numbers.

49. The natural consequences of Defendant's statements and actions was to unjustly condemn and vilify Plaintiff for her non-payment of the debt she allegedly owes.

50. The natural consequences of Defendant's statements and actions was to produce an unpleasant and/or hostile situation between Defendant and Plaintiff.

51. The natural consequences of Defendant's statements and actions was to cause Plaintiff mental distress.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

52. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(2) of the FDCPA by communicating with Plaintiff even though Defendant knew Plaintiff was represented by an attorney;
- b. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter;

- c. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequences of which is to harass, oppress, and abuse Plaintiff in connection with the collection of an alleged debt;
- d. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without meaningful disclosure of the caller's identity when Defendant identified itself as "DRS" rather than Dynamic Recovery Solutions, LLC;
- e. Defendant violated §1692e of the FDCPA by using false, deceptive, or misleading representations or means in connection with the collection of a debt;
- f. Defendant violated §1692e(4) of the FDCPA when Defendant's collector told Plaintiff that Plaintiff was defrauding Defendant's client, Chase Bank;
- g. Defendant violated §1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or that is not intended to be taken when Defendant's collector threatened to contact Plaintiff's other creditors and inform those creditors that Plaintiff refused to pay this alleged debt;
- h. Defendant violated §1692e(7) of the FDCPA by falsely representing or implying that Plaintiff committed any crime in order to disgrace Plaintiff when Defendant's collector told Plaintiff that Plaintiff was defrauding Defendant's client, Chase Bank;
- i. Defendant violated §1692e(10) of the FDCPA by using false representations or deceptive means in connection with the collection the alleged debt;
- j. Defendant violated §1692e(11) of the FDCPA when Defendant communicated with Plaintiff's husband and failed to inform Plaintiff's husband that the communication was an attempt to collect debt;
- k. Defendant violated §1692(f) of the FDCPA by using unfair or unconscionable means

1 in connection with the collection of an alleged debt; and

- 2 l. Defendant violated §1692g(b) of the FDCPA by overshadowing or being inconsistent
3 with the disclosure of the consumer's rights to dispute the debt.

4 WHEREFORE, Plaintiff, JACKIE O'NEAL, respectfully requests judgment be entered
5 against Defendant, DYNAMIC RECOVERY SOLUTIONS, LLC, for the following:
6

7 53. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C.

8 1692k,

9 54. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15

10 U.S.C. 1692k,

11 55. Any other relief that this Honorable Court deems appropriate.
12

13 **COUNT II**
14 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES**
15 **ACT**

16 56. Plaintiff repeats and re-alleges paragraphs 1-51 of Plaintiff's Complaint as the allegations in
17 Count II of Plaintiff's Complaint.

18 57. Defendant violated the RFDCPA based on the following:

19 a. Defendant violated the §1788.10(f) of the RFDCPA when Defendant's collector
20 told Plaintiff that Plaintiff was defrauding Defendant's client, Chase Bank; and
21 when Defendant's collector threatened to contact Plaintiff's other creditors and
22 inform those creditors that Plaintiff refused to pay this alleged debt;

23 b. Defendant violated the §1788.11(b) of the RFDCPA by placing telephone calls
24 without disclosure of the caller's identity when Defendant identified itself as
25 "DRS" rather than Dynamic Recovery Solutions, LLC;

26 c. Defendant violated the §1788.13(f) of the RFDCPA by false representing that
27 information concerning Plaintiff's failure or alleged failure to pay the consumer
28

1 debt is about to be reported to Plaintiff's other creditors with the intent of
2 increasing Plaintiff's interest rates;

3 d. Defendant violated the §1788.14(c) of the RFDCPA by communicating with
4 Plaintiff even though Defendant knew Plaintiff was represented by an attorney; and

5 e. Defendant violated the §1788.17 of the RFDCPA by continuously failing to comply
6 with the statutory regulations contained within the FDCPA, 15 U.S.C. § 1692 et
7 seq.
8

9 WHEREFORE, Plaintiff, JACKIE O'NEAL, respectfully requests judgment be entered
10 against Defendant, DYNAMIC RECOVERY SOLUTIONS, LLC, for the following:

11 58. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt Collection Practices Act,
12 Cal. Civ. Code §1788.30(b),

13 59. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection Practices
14 Act, Cal. Civ Code § 1788.30(c), and

15 60. Any other relief that this Honorable Court deems appropriate.
16

17
18 RESPECTFULLY SUBMITTED,

19
20 DATED: October 30, 2013

21 AGRUSS LAW FIRM, LLC

22 By: 

23 Michael S. Agruss
24 Attorney for Plaintiff
25 JACKIE O'NEAL
26
27
28

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

JACKIE O'NEAL

Plaintiff(s)

v.

DYNAMNIC RECOVERY SOLUTIONS, LLC

Defendant(s)

Civil Action No.

CV 13-05094

PSG

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* DYNAMNIC RECOVERY SOLUTIONS, LLC
135 Interstate Blvd., Suite 6
Greenville, SC 29615

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael S. Agruss
AGRUSS LAW FIRM, LLC
22 W. Washington Street, Suite 1500
Chicago, IL 60602
Tel: 312-224-4695
Fax: 312-253-4451

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

RICHARD W. WIEKING

CLERK OF COURT

Date: _____

OCT 31 2013

Gordana Macic

Signature of Clerk or Deputy Clerk

Gordana Macic

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

1 Michael S. Agruss (SBN: 259567)
2 AGRUSS LAW FIRM, LLC
3 22 W. Washington Street, Suite 1500
4 Chicago, IL 60602
5 Tel: 312-224-4695
6 Fax: 312-253-4451
7 michael@agrusslawfirm.com
8 Attorney for Plaintiff,
9 JACKIE O'NEAL

ORIGINAL FILED

OCT 31 2013

Richard W. Wieking
Clerk, U.S. District Court
Northern District of California
San Jose

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 JACKIE O'NEAL,

14 Plaintiff,

15 v.

16 DYNAMIC RECOVERY SOLUTIONS,
17 LLC,

18 Defendant.

Case No.:

CV 13-05094 PSG

PLAINTIFF'S CERTIFICATE OF
INTERESTED PARTIES


PLAINTIFF'S CERTIFICATE OF INTERESTED PARTIES

19 Plaintiff, JACKIE O'NEAL, through her attorney, AGRUSS LAW FIRM, LLC, Pursuant to
20 Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such
21 interest to report.

22 DATED: October 30, 2013

RESPECTFULLY SUBMITTED,
AGRUSS LAW FIRM, LLC

23 By:

24 
25 Michael S. Agruss
26 Attorney for Plaintiff
27 JACKIE O'NEAL
28

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JACKIE O'NEAL

(b) County of Residence of First Listed Plaintiff Santa Clara
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael Agruss - Agruss Law firm, LLC
22 W. Washington Street, Suite 1500, Chicago, IL 60602
Tel: 312-224-4695

DEFENDANTS

DYNAMIC RECOVERY SOLUTIONS, LLC

County of Residence of First Listed Defendant Greenville County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

CV 13-05094 PSG

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. 1692 et seq.; Cal. Civ. Code §1788 et seq.

Brief description of cause:
Debt collection harassment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10-30-13

SIGNATURE OF ATTORNEY OF RECORD

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)

(Place an "X" in One Box Only)

☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE ☐ EUREKA

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. **Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.